Lowman v. *Crawford* (1901) 99 Va. 688, 40 S. E. 17; but see *Wood* v. *Owen* (1910) 133 Ga. 751, 66 S. E. 951; or simply on the proving of a substantial failure of the consideration. *Meyer* v. *Meyer* (1910) 247 Ill. 535, 93 N. E. 341; *Domeracki* v. *Janikowski* (1912) 255 Ill. 575, 99 N. E. 579; *contra, Lowrey* v. *Lowrey* (1916) 111 Miss. 153, 71 So. 309. Other courts while refusing a reconveyance, have made the support of the grantor a charge upon the land conveyed. *Kinney* v. *Kinney* (1917) 221 N. Y. 133, 116 N. E. 772. However, in all the above cases, the defendant was not only to furnish the plaintiff a "living" but also to maintain and care for him by supplying a home and personal services, which, clearly, could not be specifically enforced. *Lindsey* v. *Glass* (1889) 119 Ind. 301, 21 N. E. 897; see *Russell* v. *Robbins, supra.* But, in the instant case, since the defendant was merely obliged to furnish the plaintiff money for his living expenses, specific performance could easily be granted, despite the fact that equitable supervision might have to extend over a period of time. *Cf. Western Union Tel. Co.* v. *Pennsylvania Co.* (C. C. A. 1904) 129 Fed. 849. The plaintiff having this effective remedy, it is submitted that the court properly refused to grant a reconveyance.

TAXATION—INHERITANCE TAXES—INCIDENCE.—The plaintiff sought to recover income taxes for the year 1913, paid under protest, on the ground that, under Sec. 2B of the Income Tax Act, 38 Stat. 167, which exempts "all . . . State . . . taxes paid within the year", the Commissioner should have allowed as a deduction, taxes paid to the state of New York on an inheritance vesting in the plaintiff during the year. In sustaining a demurrer to the complaint, *held,* "that the tax cannot properly be regarded as an imposition upon either the property or the right to receive a gross amount of the property of a decedent . . . but that the property and the right to receive it passed, reduced by the amount of the tax measured by a percentage of the value of the gross share." *Prentice* v. *Eisher* (D. C., S. D., N. Y., 1919) 260 Fed. 589.

This case illustrates the confusion of thought in dealing with inheritance taxes. It is generally held that such taxes are imposed, not upon property, but upon succession. 12 Columbia Law Rev. 727; 14 Columbia Law Rev. 229, 237. In an attempt to be more definite and determine upon whom the tax falls, there is a split of authority: some courts holding that it is on the privilege of the decedent to transmit; others that it is upon the privilege of the beneficiary to take. It has been suggested, however, that to pick out one of these elements as the subject of the tax, is merely arbitrary. 18 Columbia Law Rev. 475, 476. By the great weight of authority, an individual has no natural right to transmit his property by will or inheritance, and the sovereign power in allowing him to do so, may deduct so much or so little as it deems expedient. *United States* v. *Perkins* (1896) 163 U. S. 625, 16 Sup. Ct. 1073. From this it would seem that inheritance taxes are not, strictly speaking, taxes at all: the state is merely exercising to a limited extent its power to appropriate to itself the entire estate of a decedent. See 20 Columbia Law Rev. 1, 7, footnote 23.

WITNESSES—HANDWRITING—TRANSACTION WITH DECEASED PERSON.—The plaintiff claimed as beneficiary under a declaration of trust signed by the decedent. His testimony as to the genuineness of the deceased's signature, based upon knowledge of the latter's handwriting gained from letters written to the plaintiff's mother by the deceased, *held,* not

inadmissable under the state statute excluding testimony as to a personal transaction with the deceased. *Johnston* v. *Bee* (W. Va. 1919) 100 S. E. 486.

Statutes are common which prohibit an interested witness from testifying "concerning a personal transaction or communication between the witness and the deceased person . . .," N. Y. Code Civ. Proc. § 829; *cf.* Tenn. Ann. Code (1918) § 5598; Ohio Gen. Code (1910) § 11495; Iowa Ann. Code (1913) § 4604, the object being to seal the lips of a party to such a transaction concerning said transaction, because of the inability of the deceased to dispute the assertion, if untrue. 4 Jones, Evidence, 889; see *Sankey* v. *Cook* (1891) 82 Iowa 125, 128, 47 N. W. 1077; *Wilson* v. *Reynolds* (1883) 31 Hun 46, 48, *aff'd* (1885) 98 N. Y. 640. Under such statutes some jurisdictions exclude testimony of the sort given in the instant case. *Ware* v. *Burch* (1906) 148 Ala. 529, 42 So. 562; *Cunningham's Adm'r* v. *Speagle* (1899) 106 Ky. 278, 50 S. W. 244. Most jurisdictions, however, adopt what seems to be the better view and admit the testimony. *Britt* v. *Hall* (1902) 116 Iowa 564, 90 N. W. 340; *Martin* v. *McAdams* (1894) 87 Tex. 225, 27 S. W. 255; *Rush* v. *Steed* (1884) 91 N. C. 226; see *Hoag* v. *Wright* (1903) 174 N. Y. 36, 40, 66 N. E. 579; 2 Jones, *op. cit.*, 889; 3 *Ibid.*, 608 *et seq.* If the opinion of the witness is derived solely from his observation of actual signings, his testimony would be inadmissible. *Wilber* v. *Gillespie* (1908) 127 App. Div. 604, 112 N. Y. Supp. 20; see *Rush* v. *Steed, supra*; 8 Columbia Law Rev. 650. On the other hand, testimony of the sort in question cannot be interpreted as relating to a personal transaction with a deceased. It is clearly nothing more than the opinion of the witness gained from previous knowledge of the deceased's handwriting, which the deceased, even if alive, would not be competent to deny; and this, furthermore, would not be doing indirectly what cannot be done directly, which, in a word, is the argument on the other side. The interest of the witness should, of course, influence the jury in evaluating his testimony. *Lovell* v. *Davis* (1893) 52 Mo. App. 342, 349; see *Lounsbury* v. *Knights of Maccabees* (1908) 128 App. Div. 394, 396, 112 N. Y. Supp. 921.

WORKMEN'S COMPENSATION ACTS—MUNICIPAL EMPLOYEE—POLICEMAN.—A patrolman, who had been detailed by his superior officer to care for the prisoners in the station house, to clean the walls and floor, and to fix the electric lights, was accidentally injured in the performance of this duty. *Held,* two judges dissenting, that he was an employee of the city within the Workmen's Compensation Law. N. Y. Consol. Laws c. 67 (Laws of 1914 c. 41). *Ryan* v. *City of New York* (1919) 189 App. Div. 49, 178 N. Y. Supp. 402.

The manner of his appointment and the character of his duties constitute a policeman a public officer. *Dempsey* v. *New York C. & H. R. R.* (1895) 146 N. Y. 290, 40 N. E. 867; *Haney* v. *Cofran* (1915) 94 Kan. 332, 146 Pac. 1027. A city is not liable as master or principal for the torts of its policemen, *Calwell* v. *City of Boone* (1879) 51 Iowa 687, 2 N. W. 614; *Peters* v. *City of Lindsborg* (1889) 40 Kan. 654, 20 Pac. 490, and in the enforcement of its police regulations it is not engaged in a "trade or business". *Griswold* v. *City of Wichita* (1917) 99 Kan. 502, 162 Pac. 276. It was the intention of the legislature in passing the Act to make compensation a part of the cost of production which would ultimately be paid by the consumer. See *Matter of Post* v. *Burger & Gohlke* (1916) 216 N. Y. 544, 111 N. E. 351. Some Work-